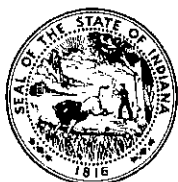


INDIANA STATE EXCISE POLICE



OFFICE OF THE SUPERINTENDENT

HEADQUARTERS
302 WEST WASHINGTON, ROOM E112
INDIANAPOLIS, IN 46204
(317) 232-2452



MATT STRITTMATTER

March 15, 2016

Mr. James Purucker
Wine and Spirits Wholesalers of Indiana
135 North Pennsylvania Street, Ste. 1175
Indianapolis, Indiana 46204

RE: Industry Advisory

Dear Jim:

The Indiana State Excise Police and the Alcohol and Tobacco Commission, at times, must offer industry advisories in order to ensure that all permit holders in all three tiers have clarification as to what and what is not permissible for them to do under Indiana law, specifically, the Indiana Alcoholic Beverage Code. It is our mission to make certain that we encourage voluntary compliance with the law through education, initially, and through enforcement, if necessary.

The intention of this advisory is to clarify questions regarding what services a wholesaler may provide to a dealer or retailer (hereinafter "Dealer") under the restrictions placed on these two types of permits by Indiana Code Title 7.1 and Title 905 of the Indiana Administrative Code (the "Indiana Alcoholic Beverage Laws"). Recently, a question was presented as to whether a Dealer can require a wholesaler to place security caps on product once it is delivered to a Dealer premises. 905 IAC 1-5.2-15(a) provides that, "a primary source of supply or wholesaler may only furnish to a retailer or a dealer supplies and services that are specifically prescribed by this rule." Specific product management services allowable pursuant to 905 IAC 1-5.2-15(a) are as follows:

On a nondiscriminatory basis, a primary source of supply or wholesaler may offer:

- product rotation of alcoholic beverages on retail shelves,
- storage area, retail shelf and display stocking,
- display construction for freestanding, special, and nonpermanent floor displays, and
- delivery and placement of product to the retailer designated or dealer designated storage areas.

The aforementioned rule does not allow any other actions to be taken or services to be provided, including the placement of security caps on bottles of product. Any actions taken by the wholesaler on behalf of the Dealer in relation to product management or the offering of services to the Dealer not expressly authorized by the Indiana Alcoholic Beverage Laws are violations of the trade practice prohibitions. Any other services provided to Dealer permit holders would be considered providing a "thing of value" to that permit holder.

Whenever a primary source or wholesaler is prohibited from giving any service or thing of value to a Dealer, the Dealer permit holder is prohibited from soliciting or receiving such services or things of value (905 IAC 1-5.1-12). Since the placement of security caps on bottles of liquor is prohibited, Dealers should not solicit such services from wholesalers. Additionally, any retaliatory actions by a permit holder against another permit holder for not providing services that are not expressly authorized may be considered to be a violation of I.C. 7.1-5-12-11.

In closing, I want to offer this disclaimer. Industry advisories are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on the Indiana Alcohol and Tobacco Commission, the Indiana State Excise Police, permit holders, or the general public. Therefore, the information provided in this advisory should only serve as a foundation for further investigation and study of the current laws and procedures related to this subject matter.

Yours truly,

A handwritten signature in black ink, appearing to read "Matt Stittmatter", with a stylized flourish at the end.

Matt Stittmatter
Superintendent

Cc: David Cook, Chairman
Mark Mader, ATC prosecutor